

Brian Sandoval  
Governor



James M. Wright  
Director

General Services Division  
333 West Nye Lane, Suite 100  
Carson City, Nevada 89706  
Telephone (775) 684-6262 – Fax (775) 684-6265  
[www.nvrepository.state.nv.us](http://www.nvrepository.state.nv.us)

Julie Butler  
Division Administrator

**NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATIONS  
AND  
NOTICE OF PUBLIC MEETING  
Friday, January 8, 2016**

The Notice of Workshop to Solicit Comments on Proposed Regulations and Notice of Public Meeting was called to order at 1:02 pm on Friday January 8, 2016. The staff members were present at the Gaming Control Board, 1919 College Parkway, Carson City, NV with video conferencing to the Gaming Control Board, 555 E Washington Ave, Suite 2450, Las Vegas, NV.

**STAFF MEMBERS PRESENT:**

Mindy McKay – Department of Public Safety General Services Division  
Erica Souza-Llamas – Department of Public Safety General Services Division  
Katie Brady – Nevada Attorney General's Office  
Julie Butler – Department of Public Safety General Services Division  
Jacqueline Weaver – Department of Public Safety General Services Division

**OTHERS PRESENT:**

Carson City NV:

PK O'Neill - Nevada State Assemblyman  
Sara Clow – Morphotrak  
Charles Jamison - Morphotrak

Las Vegas NV:

Carla Stone – North Las Vegas Police Department  
Terry Fletcher – North Las Vegas IT

Mindy McKay:

**Agenda Item 1: Call to order and introduction of General Services Division representatives**

I am calling this regulation workshop to solicit comments on proposed regulations for Nevada Administrative Code 179A to order on Friday, January 8, 2016 at 1:02 pm. I would like to introduce the representatives of the General Services Division at this time. I am Mindy McKay, Records Bureau Chief within the General Services Division of the Nevada Department of Public Safety. To my left is Julie Butler...

Julie Butler:

Thank you Mindy, Julie Butler, Division Administrator for Department of Public Safety General Services Division

Mindy McKay:

To my right is Erica  
Erica Souza-Llamas:

Thank you, Erica Souza-Llamas with the Nevada Department of Public Safety I am the Criminal History Repository Manger

Mindy McKay:

We also have with us, Katie Brady who is our Deputy Attorney General; she is here to make sure we are in compliance with the various laws today, so thank you Katie.

You all should have a handout that was provided, and please make sure you sign in. As you approach the podium to make any public comment I ask that you address your name and affiliation please.

Mindy McKay:

**Agenda Item 2: Opening Remarks**

This is a regulation workshop to solicit comments on proposed regulations for Nevada Administrative Code 179A pursuant to Assembly Bill 224 from the 2015 legislative session as it relates to biometric identifiers. The Department of Public Safety, General Services Division requested that Assemblyman O’Neill bring forth this bill on behalf of the Criminal History Repository and statewide law enforcement as a housekeeping measure to allow Nevada to keep up with evolving technologies for the accurate identification of people. AB 224 amended NRS 179A.075 to authorize the division to submit to the FBI one or more of a person’s fingerprints for the purposes of mobile identification, a complete set of fingerprints for criminal arrest booking purposes, or other biometric identifier of the person. The General Services Division is taking this opportunity to amend NAC chapter 179A in conformity with these statutory changes and to also amend other sections of this chapter as it relates to the revolving account to investigate background of volunteers who work with children. Everyone should have a copy of the workshop notice, agenda, small business impact statement, and proposed regulations for reference to follow along. Please be sure to sign-in on the roster provided and provide your full name and affiliation when speaking.

Mindy McKay:

**Agenda Item 3: Public comment**

Are there any public comments from the north or the south? Hearing none, seeing none we will move on to agenda item 4.

Mindy McKay:

**Agenda Item 4: For discussion and possible action – New NAC contains proposed regulatory language to define the term “Authorized Federal Authority”**

The agenda has been crafted in such a way to address each proposed change to the regulation individually. The first proposed change is adding a new NAC to define the term “Authorized Federal Authority”. We felt it necessary to define this term as it is being referenced further in the regulation specific to the revolving account to investigate background of volunteers who work with children. When we get to that agenda item, we will further explain the purpose of adding this language. The definition was drafted consistent with what the FBI requires to accept fingerprint submissions for various authorized purposes.

Are there any public comments from the north or the south? Hearing none, seeing none we will move on to agenda item 5.

Mindy McKay:

**Agenda Item 5: For discussion and possible action – New NAC contains proposed regulatory language to define the term “Record of Criminal History”**

This proposed change is adding a new NAC to define the term “Record of Criminal History”. Although this

definition exists in Nevada Revised Statute 179A.070, we felt it would be helpful to provide it in NAC for easy reference and to indicate that it includes biometric identifiers.

**NRS 179A.070 “Record of criminal history” defined.**

1. “Record of criminal history” means information contained in records collected and maintained by agencies of criminal justice, the subject of which is a natural person, consisting of descriptions which identify the subject and notations of summons in a criminal action, warrants, arrests, citations for misdemeanors issued pursuant to [NRS 171.1773](#), citations issued for violations of [NRS 484C.110](#), [484C.120](#), [484C.130](#) and [484C.430](#), detentions, decisions of a district attorney or the Attorney General not to prosecute the subject, indictments, informations or other formal criminal charges and dispositions of charges, including, without limitation, dismissals, acquittals, convictions, sentences, information set forth in [NRS 209.353](#) concerning an offender in prison, any postconviction relief, correctional supervision occurring in Nevada, information concerning the status of an offender on parole or probation, and information concerning a convicted person who has registered as such pursuant to [chapter 179C](#) of NRS. The term includes only information contained in a record, maintained in written or electronic form, of a formal transaction between a person and an agency of criminal justice in this State, including, without limitation, the fingerprints of a person who is arrested and taken into custody and of a person who is placed on parole or probation and supervised by the Division of Parole and Probation of the Department.

2. “Record of criminal history” does not include:

(a) Investigative or intelligence information, reports of crime or other information concerning specific persons collected in the course of the enforcement of criminal laws;

(b) Information concerning juveniles;

(c) Posters, announcements or lists intended to identify fugitives or wanted persons and aid in their apprehension;

(d) Original records of entry maintained by agencies of criminal justice if the records are chronological and not cross-indexed;

(e) Records of application for and issuance, suspension, revocation or renewal of occupational licenses, including, without limitation, permits to work in the gaming industry;

(f) Except as otherwise provided in subsection 1, court indexes and records of public judicial proceedings, court decisions and opinions, and information disclosed during public judicial proceedings;

(g) Except as otherwise provided in subsection 1, records of traffic violations constituting misdemeanors;

(h) Records of traffic offenses maintained by the Department to regulate the issuance, suspension, revocation or renewal of drivers’ or other operators’ licenses;

(i) Announcements of actions by the State Board of Pardons Commissioners and the State Board of Parole Commissioners, except information concerning the status of an offender on parole or probation; or

(j) Records which originated in an agency other than an agency of criminal justice in this State.

(Added to NRS by 1979, 1850; A [1985, 1977](#); [1987, 1764](#); [1995, 2069](#); [1997, 1327](#); [1999, 2089](#); [2005, 164](#); [2007, 2810](#))

Are there any public comments from the north or the south? Hearing none, seeing none we will move on to agenda item 6.

Mindy McKay:

**Agenda Item 6: For discussion and possible action – New NAC contains proposed regulatory language to define the term “Biometric identifier”**

This proposed change is adding a new NAC to define the term “Biometric identifier”. Once codified, this definition will exist in Nevada Revised Statute 179A.075 pursuant to Assembly Bill 224. Again, we felt it would be helpful to provide it in NAC for easy reference.

Are there any public comments from the north or the south? Hearing none, seeing none we will move on to agenda item 7.

Mindy McKay:

**Agenda Item 7: For discussion and possible action – New NAC adoption by reference of the federal Criminal Justice Information Services Security Policy**

This proposed change is adding a new NAC to adopt by reference the federal Criminal Justice Information Services Security Policy which exists as one of the governing policies of records of criminal history to include biometric identifiers.

Are there any public comments from the north or the south? Hearing none, seeing none we will move on to agenda item 8.

Mindy McKay:

**Agenda Item 8: For discussion and possible action – New NAC adoption by reference of the Nevada Criminal Justice Information System Administrative Policies**

This proposed change is adding a new NAC to adopt by reference the Nevada Criminal Justice Information System Administrative Policies which exists as one of the governing policies of records of criminal history to include biometric identifiers.

Are there any public comments from the north or the south? Hearing none, seeing none we will move on to agenda item 9.

Mindy McKay:

**Agenda Item 9: For discussion and possible action – New NAC adoption by reference of the Nevada State Policies, Standards and Procedures**

This proposed change is adding a new NAC to adopt by reference the Nevada State Policies, Standards and Procedures which exists as one of the governing policies of records of criminal history to include biometric identifiers.

Are there any public comments from the north or the south? Hearing none, seeing none we will move on to agenda item 10.

Mindy McKay:

**Agenda Item 10: For discussion and possible action – Revised NAC 179A.040 adding language pursuant to safeguarding, storage, dissemination, and destruction of records of criminal history in accordance with federal and state criminal justice information security policies and repealing NAC 179A.040(1)(a) and (b), (2), (3), and (4)**

This proposed change is adding the language pursuant to Assembly Bill 224 amending NRS 179A.075 (7) The Repository shall: (j) Adopt regulations governing biometric identifiers and the information and data derived from biometric identifiers, including, without limitation: (1) Their collection, use, **safeguarding**, handling, retention, **storage, dissemination and destruction**. The terms “safeguarding, storage, dissemination, and destruction” best fit in this section of the regulation as it relates to security of records of criminal history which is governed by the aforementioned federal, NCJIS, and state policies. The repeal of subsections (1) (a) and (b), (2), (3), and (4) is due to governance existing in the aforementioned federal, NCJIS, and state policies thus making the reference in NAC duplicative.

Are there any public comments from the north or the south? Hearing none, seeing none we will move on to agenda item 11.

Mindy McKay:

**Agenda Item 11: For discussion and possible action – New NAC adding authorization for use of records of criminal history**

This proposed change is adding the language pursuant to Assembly Bill 224 amending NRS 179A.075 (7) The Repository shall: (j) Adopt regulations governing biometric identifiers and the information and data derived from biometric identifiers, including, without limitation: (1) Their collection, use, safeguarding, handling, etc. as the explicit term “use” didn’t already exist in the regulation. The reference to NRS 179A.020 was added to provide that records of criminal history are only authorized to be used in accordance with the administration of criminal justice, which is provided for in NRS 179A.020, and is limited to the “detection, apprehension, detention, release pending trial or after trial, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders, and includes criminal identification activities and the collection, storage and dissemination of records of criminal history.”

Are there any public comments from the north or the south? Hearing none, seeing none we will move on to agenda item 12.

Mindy McKay:

**Agenda Item 12: For discussion and possible action – New NAC adding the collection of records of criminal history**

This proposed change is adding the language pursuant to Assembly Bill 224 amending NRS 179A.075 (7) The Repository shall: (j) Adopt regulations governing biometric identifiers and the information and data derived from biometric identifiers, including, without limitation: (1) Their collection, use, safeguarding, handling, etc. as the explicit term “collection” didn’t already exist in the regulation. The reference to NRS 179A.075 was added to indicate that the collection must occur in accordance with NRS 179A.075, which outlines the duties and responsibilities of the Central Repository and the agencies of criminal justice and provides for the collection, maintenance, and submittal of records.

Are there any public comments from the north or the south? Hearing none, seeing none we will move on to agenda item 13.

Mindy McKay:

**Agenda Item 13: For discussion and possible action – New NAC adding the retention of records of criminal history**

This proposed change is adding the adoption by reference language pursuant to Assembly Bill 224 amending NRS 179A.075 (7) The Repository shall: (j) Adopt regulations governing biometric identifiers and the information and data derived from biometric identifiers, including, without limitation: (1) Their collection, use, safeguarding, handling, retention, storage, dissemination and destruction as the adoption by reference to state agency retention schedule for the Department of Public Safety, General Services Division didn’t exist in the regulation. This reference was added as we felt it would be helpful to provide it in NAC for easy reference.

Are there any public comments from the north or the south? Hearing none, seeing none we will move on to agenda item 14.

Mindy McKay:

**Agenda Item 14: For discussion and possible action – Revised NAC 179A.060 adding language specifying the location of the records of criminal history in relation to the requirement for security of such records**

The proposed change is adding language to specify that criminal justice agencies must meet the standards established by the FBI Criminal Justice Information Services Security Policy as well as to clarify which agencies are held to these standards. The other proposed changes to this section repeals language in an effort to better clarify the governance of the requirement to ensure the security and access of records of criminal history to authorized entities. After further review of the proposed regulations, please note that one of the changes that will be made after this workshop is retaining the language specific to NAC 179A.060 (1) “for employment as a custodian of records” which was originally stricken.

Are there any public comments from the north or the south? Hearing none, seeing none we will move on to agenda item 15.

Mindy McKay:

**Agenda Item 15: For discussion and possible action – Revised NAC 179A.090 repealing language regarding the use of a form for challenges to the accuracy of records of criminal history and adding language regarding how to request removal of a record of criminal history**

The proposed repeal of language regarding the use of a form for challenges to the accuracy of records of criminal history is due to process changing rendering this irrelevant. The current challenge form with instructions is posted on our public website at [www.gsd.nv.gov](http://www.gsd.nv.gov). The proposed added language regarding how to request removal of a record of criminal history is pursuant to Assembly Bill 224 amending NRS 179A.075 (7) The Repository shall: (j) Adopt regulations governing biometric identifiers and the information and data derived from biometric identifiers, including, without limitation: (2) the methods by which a person may request the removal of his or her biometric identifiers from the Central Repository and any other agency where his or her biometric identifiers have been stored. Therefore, the added language satisfies the regulation adoption requirements set forth in Assembly Bill 224.

Are there any public comments from the north or the south? Hearing none, seeing none we will move on to agenda item 16.

Mindy McKay:

**Agenda Item 16: For discussion and possible action – Revised NAC 179A.150 repealing language specific to state authorities for the submission of fingerprint based background checks for volunteers who work with children and adding language specific to authorized federal and state authorities for the submission of fingerprint based background checks for volunteers who work with children.**

The proposed repeal of language specific to state authorities for the submission of fingerprint based background checks for volunteers who work with children is due to those state authorities being removed in a previous legislative session. The proposed added language specific to authorized federal and state authorities for the same purposes allows for the ability to continue submitting fingerprint based background checks for volunteers who work with children. In summary, one is replacing the other, therefore resulting in no real impact.

Are there any public comments from the north or the south? Hearing none, seeing none we will move on to agenda item 17.

Mindy McKay:

**Agenda Item 17: For discussion and possible action – Revised NAC 179A.160 repealing language specific to state authorities for the submission of fingerprint based background checks for volunteers who work with children and adding language specific to authorized federal and state authorities for the submission of fingerprint based background checks for volunteers who work with children.**

The proposed repeal of language specific to state authorities for the submission of fingerprint based background checks for volunteers who work with children is due to those state authorities being removed in a previous legislative session. The proposed added language specific to authorized federal and state authorities for the same purposes allows for the ability to continue submitting fingerprint based background checks for volunteers who work with children. In summary, one is replacing the other, therefore resulting in no real impact.

Are there any public comments from the north or the south? Hearing none, seeing none we will move on to agenda item 18.

Mindy McKay:

**Agenda Item 18: For discussion and possible action - discuss the potential for small business impact**

The General Services Division, Central Repository determined that small business would not be impacted in any way due to the fact that one portion of the revision only impacts law enforcement agencies and the other portion of the revisions simply clarifies the authorized federal and state authority for submissions of fingerprints for background checks on volunteers who work with children through non-profit entities which already existed.

Are there any public comments from the north or the south? Hearing none, seeing none we will move on to agenda item 19.

Mindy McKay:

**Agenda Item 19: Public comment**

Are there any public comments at this time? Hearing none, seeing none, Julie Butler would like to say something.

Julie Butler:

Go ahead

Carla Stone:

I would just like to say thank you for all your efforts on this, I know there was a lot of back end work to be done to be able to use this technology, and it looks like you covered almost everything. I don't work at the state but I also know you have to govern the law enforcement. As far as the legal, a fine job, and thank you.

Julie Butler:

Thank you, Carla, very much for that. Julie Butler for the record. I would like to echo that and thank Mindy McKay, Erica Souza and Katie Brady for their hard work on these regulations. It's a rather difficult and lengthy process to go through this and I would like to go on the record publicly and acknowledge that. The second thing, I had a conversation with Mindy just this morning. I do think we will need to make a slight tweak to the regulations in that I just want to make sure that we still have the ability to collect fingerprints with respect to applicant background checks. So there are varied statutes throughout the Nevada Revised Statutes that require the collection of the full set of fingerprints for applicant background checks and I want to make sure that with respect to authorized usage, dissemination and storage, that our regulations cover that. I just wanted to get that on the record, but that was it. Again thank you very much and again Katie thank you very much we appreciate it and we are very excited to move forward and offer this opportunity for law enforcement. Thank you.

Mindy McKay:

Thank you very much, thank you Carla for those kind words and thank you Assemblyman O'Neill for sponsoring Assembly Bill 224 and thank you to my leadership Julie Butler and of course my cohorts in this regulation workshop process, I greatly appreciate everyone's help and support. What we will do is take any comments that we receive and take them into consideration. I do anticipate comments from Las Vegas Metropolitan Police Department to be submitted and with what Julie has stated just a second ago and I think there is some clean up on some grammar that we found. We will make those changes, submit them to the legislature for drafting and we will then be holding a public hearing 30 days after that. So this may be another 60 days after the fact. Thank you very much and look forward to being notified of that.

Mindy McKay:

**Agenda Item 20: Adjournment** – This workshop is adjourned at 1:23 pm.

On 01/22/2016 Mindy McKay received the attached PDF with comments from Carmen Tarrats Chair, NCJIS Southern Nevada Technical Subcommittee with the Las Vegas Metropolitan Police Department